

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AMBROSIO & SIROIS VENTURE,)
PARTNERS, LP, et al.,)

Plaintiffs,)

v.)

Case No. 4:02CV725 HEA

MARION BASS SECURITIES)
CORPORATION, et al.,)

Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on defendant Sean Henry's Motion to Dismiss First Amended Complaint and/or Strike Certain Allegations as to This Defendant, [#47]; defendant Lewis' Motion to Dismiss First Amended Complaint and/or Strike Certain Allegations as to This Defendant, [#48]; and defendant Lewis' Resubmitted Motion to Have the Entry of Default Against Robert Lewis Set Aside, [#52]. For the reasons set forth below, the Motions to Dismiss are denied and the motion to set aside the default is granted.

On April 28, 2003, this Court dismissed Counts I and II of plaintiffs' Complaint because these counts failed to sufficiently allege the scienter requirement under the Private Securities Litigation Reform Act of 1995. Plaintiffs' First

Amended Complaint sets forth additional facts which resolve the problems that were originally present. See Memorandum and Order dated April 28, 2003. Therefore, defendants Henry and Lewis' motion to dismiss for failure to state a cause of action with respect to these counts is denied.

Defendants again seek dismissal of the claims under Sections 12(a)(1) and (2) of the Securities Act of 1935 and the state law claims. These issues were previously addressed in the Court's April 28, 2003 Order. The motions to dismiss these claims are also denied. *Id.*

Defendant Lewis also asks the Court to set aside the entry of default against him. After consideration of the motion, the Court finds that in the interests of justice, the motion should be granted.

Accordingly,

IT IS HEREBY ORDERED that defendants Henry and Lewis' Motions to Dismiss, [No.'s 47 and 48], are denied.

IT IS FURTHER ORDERED that defendant Lewis' Motion to Set Aside Entry of Default, [#52], is granted.

Dated this 9th day of January, 2004.

A handwritten signature in black ink, reading "Henry Edward Autrey", with a long horizontal flourish extending to the right.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE